

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Misc. Case No: 1:20-mc-00313

In Re Application of

OLEGS FILS,

Petitioner.

**AMENDED EX PARTE
APPLICATION FOR THE
ISSUANCE OF SUBPOENAS
DUCES TECUM PURSUANT TO 28
U.S.C. § 1782 TO ZIP AVIATION,
LLC AND 336 LIQUOR STORE,
INC. d/b/a CRUSH WINE &
SPIRITS**

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**DECLARATION OF OLEGS FILS IN SUPPORT OF MEMORANDUM OF LAW IN
SUPPORT OF AMENDED EX PARTE APPLICATION FOR THE ISSUANCE OF
SUBPOENAS DUCES TECUM PURSUANT TO 28 U.S.C. § 1782 TO ZIP AVIATION, LLC
AND 336 LIQUOR STORE, INC. d/b/a CRUSH WINE & SPIRITS**

1. "My name is Olegs Fils. I am a citizen of the country of Latvia, and I currently reside in Riga, Latvia. I am over the age of twenty-one years old, I have never been convicted of a crime involving moral turpitude, and I am competent to make the statements contained herein. I declare under penalty of perjury that the foregoing is true and correct and within my personal knowledge.

2. I am the claimant in proceedings currently before a court in Latvia (Case No.C30657918) (the "Latvian Proceedings") against my former wife, Ms. Santa Bernahl (previously – Ms. Zamuele) ("Ms. Bernahl"). In this capacity, I have personal knowledge regarding the facts contained in this affidavit.

3. Ms. Bernahl and I were married from October 1, 2016 until March 29, 2018, when our divorce was finalized. Ms. Bernahl asked me for a divorce in early 2018. During our marriage, I gifted to Ms. Bernahl numerous valuable belongings and funds valued at several million *Euros*, including, but not limited to: a Harry Winston engagement ring (valued at 199 600,00 EUR); a



Tiffany & Co jewelry set consisting of earrings and a necklace (valued at 18 000,00 EUR); Harry Winston Chandelier Cluster earrings (valued at 88 400,00 EUR); a Rolex watch (valued at 9 600,00 EUR); a Porsche Macan (valued 67 760,00 EUR); a Porsche Turbo (valued at 133.100,00 EUR); an IWC Da Vinci Automatic Moon Phase 36 alligator watch (valued at 15 400,00 EUR); and 3 600.000,00 EUR in cash.

4. After Ms. Bernahl and I divorced in March 2018 upon Ms. Bernahl's initiative, I discovered that Ms. Bernahl had been in an extra-marital relationship with Mr. David Bernahl ("Mr. Bernahl"). I discovered this fact through information provided by acquaintances, which was confirmed, *inter alia*, by posts from Mr. Bernahl's social media account, in which Mr. and Ms. Bernahl are seen exchanging loving words with each other and are seen embracing and kissing while posing for pictures in 2017, during the time Ms. Bernahl and I were still married and before the time Ms. Bernahl instituted divorce proceedings. As an example, in one Instagram post on Mr. Bernahl's account, Mr. and Ms. Bernahl are pictured in front of a Zip Aviation, LLC ("Zip Aviation") helicopter at the Downtown Manhattan Heliport in New York City. *See Exhibit A*, photo of Mr. and Mrs. Bernahl in or about August 2017. Based on my knowledge of the timing of her trips to New York and the construction progress of the New York skyscrapers in the background of the picture, as well as Ms. Bernahl's credit card records, this picture was taken in August 2017.

5. As another example, in Instagram posts on Mr. Bernahl's account from December 8, 2017 and January 16, 2018 (while Ms. Bernahl was visiting California, where Mr. Bernahl resides), Mr. and Ms. Bernahl are pictured embracing, while the captions read "Luckiest guy in the world... (continued)" and "Moments #❤️" respectively. *See Exhibits B and C*, photos of Mr. and Ms. Bernahl.



6. On January 26, 2018, a picture with Ms. Bernahl's children was also posted on Mr. Bernahl's account, geotagged as having been taken in Big Sur, California. *See Exhibit D*, photo of Ms. Bernahl's children.

7. During her trips to the United States in August and December 2017, as well as January and February 2018, Ms. Bernahl spent many weeks in Carmel-by-the-Sea, California. Numerous charges by businesses in and near Carmel, California are reflected in Ms. Bernahl's credit card statements. *See Exhibit E*, Credit Card Statement of Ms. Bernahl.

8. Mr. Bernahl has resided in Carmel-by-the-Sea (specifically on Eastfield Court in Carmel) since at least August 2017, including during the time of Ms. Bernahl's numerous and lengthy visits to this California town.

9. During this time, Ms. Bernahl and I were still married. Yet Ms. Bernahl's credit card statement reflects charges by "ZIP AVIATION MANH" on August 12 and 13, 2017, in the amount of \$3,765.00 and \$3,880.00, respectively, and charges on December 11, 2017 and February 1, 2018 by "CRUSH WINE & SPIRITS" for \$3,942.78 and \$2,008.01 respectively. *See Exhibit E*, Credit Card Statement of Ms. Bernahl. My account statement also reflects a charge on February 1, 2018 by "CRUSH WINE & SPIRITS" for \$719.80, which was made by Ms. Bernahl. *See Exhibit F*, Account Statement of Mr. Olegs Fils. In most part, Ms. Bernahl paid her credit card bill with funds I gifted to her during our marriage.

10. The December 11, 2017 charge by Crush Wine & Spirits is made on a day when Ms. Bernahl was in Riga, Latvia, as demonstrated by charges by a Latvian floral shop ("ZIEDU TIRGOTAVA LAKSTOS 2, RIGA, LV"), and was preparing to leave for the United States. *See Exhibit G*, Account Statement of Mr. Olegs Fils.



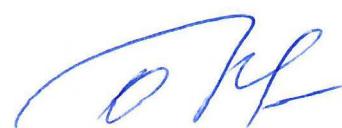
11. When Ms. Bernahl made purchases at Crush Wine & Spirits on February 1, 2018 in the amount of \$2,008.01 and \$719.80 respectively, she was in California.

12. During the time spent together with Mr. Bernahl, Ms. Bernahl also provided direct financial assistance to Mr. Bernahl, using funds accumulated in her bank account mostly comprised of the cash I had gifted to her. As evidenced by her bank account statement, on December 13, 2017, Ms. Bernahl issued a “short term loan” of \$8,000.00 to Mr. Bernahl. *See Exhibit H, Bank Account Statement of Ms. Bernahl.*

13. I learned that shortly after our divorce in March 2018, Mr. and Mrs. Bernahl married in July 2018—just months after I learned of their affair. They reside together in California as husband and wife.

14. As a result of Ms. Bernahl’s infidelity, and gross ingratitude towards me through other actions and attitudes of Ms. Bernahl in connection with these circumstances, I have instituted claims in the Latvian Proceedings seeking to cancel various gift agreements I entered into with Ms. Bernahl and to recover gifted items and funds valued at €2.4 million, on the basis of gross ingratitude and for her fault in the dissolution of the marriage. Ms. Bernahl has either disposed of or transferred to foreign accounts and/or family members most of her assets, including a portion of the gifted items and funds. To ensure that recovery of assets will be possible in case the court rules in favor of cancelling the gift agreements that Ms. Bernahl entered into, I have also instituted claims in the Latvian Proceedings seeking to declare some of these transfers from Ms. Bernahl to her family members as fraudulent and void.

15. The documents obtained from Zip Aviation and Crush Wine & Spirits will be used in the Latvian Proceedings to demonstrate that Mr. and Ms. Bernahl were in each other’s company and involved in an extra-marital affair during the time Ms. Bernahl and I were married. The



documents obtained from Zip Aviation will show that, during this time that Mr. and Ms. Bernahl were on vacation, they were passengers aboard a helicopter chartered through Zip Aviation, and that Ms. Bernahl paid for this extravagant excursion with her lover with funds I gifted her. In addition, Ms. Bernahl made the purchases at Crush Wine & Spirits on December 11, 2017, while she was in Riga, Latvia, and on February 1, 2018, while she was in California. These purchases were never received by me, or at my home in Riga, Latvia.

16. In short, the documents obtained from Zip Aviation and Crush Wine & Spirits will be used in the Latvian Proceedings to ultimately help demonstrate that Ms. Bernahl was unfaithful to me in at least August 2017, December 2017, and February, 2018, while we were still married, and that Ms. Bernahl covered her and her lover's luxury expenses with funds I gifted to her, thus supporting my claim of gross ingratitude, and justifying the cancellation of the gift agreements that are at the heart of the Latvian Proceedings.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 17, 2020



Olegs Fils"